IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Criminal Miscellaneous No. 16418-M of 2007

Date of decision: 16.7.2008

Sanjiv Kumar and others --- Petitioners

Versus

State of Punjab and another

CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL

PRESENT: Mr. Raj Pal Singh, Advocate
for the petitioners.

Mr. Amandeep Singh Assistant Advocate
General, Punjab

Mr. Rahul Dev Singh, Advocate
for respondent No.2-complainant.

AJAY KUMAR MITTAL, J.

This is a petition under Section 482 of the Code of Criminal Procedure for quashing of F.I.R. No. 13 dated 19.1.2007, under Sections 363/366/376 of the Indian Penal Code, registered at Police Station, Batala City and all other consequential proceedings.

Balwinder Masih, respondent No.2 lodged the above F.I.R. on the allegations that his daughter Rita had been enticed by certain persons at the instance of the petitioners without his consent. The petitioners have averred in the petition that petitioner No.1 is major and he got married Reeta daughter of respondent No.2 and a compromise has been effected between the parties, a copy of which was placed on record as Annexure P-3. Today, the complainant came present in Court

along with his daughter Rita and both of them got recorded their respective statements to the aforesaid effect. Rita daughter of the complainant has stated that she has married to Sanjiv Kumar (petitioner No.1) and now she was living with her in-laws i.e. petitioner Nos. 2 and 3 and she has no objection if the F.I.R. and the proceedings arising in consequence thereof are quashed and her husband-Sanjiv Kumar is released from the jail. Balwinder Masih-complainant also, in his statement, deposed to the aforesaid effect and stated in clear terms that a compromise has been effected between the parties and he did not want to proceed with the case registered by him vide F.I.R. No. 13 dated 19.1.2007, under Sections 363/366/376 IPC in the Police Station Batala City and he had no objection if the said F.I.R. was quashed. He further stated that there was no threat or pressure on him to make the said statement. He also furnished his affidavit dated 16.7.2008, Mark 'A' in support of the said fact and stated that the affidavit bears his signatures. Rita and Balwinder Masih have been duly identified by their respective counsel.

I have heard the learned counsel for the parties and have perused the record carefully. From the facts and circumstances noticed above, a question would, thus, arise, whether the parties can enter into a compromise in a non-compoundable offence. This question has now been settled by the Full Bench of this Court in **Kulwinder Singh** vs. **State of Punjab**, 2007 (3) RCR 1052. The observations of the Full Bench recorded in paras-28, 29 and 30 of its judgment can advantageously be noticed here, which read as under**:-**

"28. The compromise, in a modern society, is the sine qua non of harmony and orderly behaviour. It is the soul of justice and if the power under Section 482 of the Cr.P.C. is used to enhance such a compromise which, in turn, enhances the social amity and reduces friction, then it truly is "*finest hour of justice".* Disputes which have their genesis in a matrimonial discord, landlord-tenant matters, commercial transactions and other such matters can safely be dealt with by the Court by exercising its powers under Section 482 of the Cr.P.C. in the event of a compromise, but this is not to say that the power is limited to such cases. There can never be any such rigid rule to prescribe the exercise of such power, especially in the absence of any premonitions to forecast and predict eventualities which the cause of justice may throw up during the course of a litigation.

29. The only inevitable conclusion from the above discussion is that there is no statutory bar under the Cr. P.C. which can affect the inherent power of this Court under Section 482. Further, the same cannot be limited to matrimonial cases alone and the Court has the wide power to quash the proceedings even in non-compoundable offences notwithstanding the bar under Section 320 of the Cr.P.C. in order to prevent the abuse of law and to secure the ends of justice.

30. The power under Section 482 of the Cr.P.C. is to be exercised Ex-Debitia Justitia to prevent an abuse of process of Court. There can neither be an exhaustive list nor the defined para-meters to enable a High Court to invoke or exercise its

inherent powers. It will always depend upon the facts and circumstances of each case. The power under Section 482 of the Cr. P.C. has no limits. However, the High Court will exercise it sparingly and with utmost care and caution. The exercise of power has to be with circumspection and restraint. The Court is a vital and an extra-ordinary effective instrument to maintain and control social order. The Courts play role of paramount importance in achieving peace, harmony and ever-lasting congeniality in society. Resolution of a dispute by way of a compromise between two warring groups, therefore, should attract the immediate and prompt attention of a Court which should endeavor to give full effect to the same unless such compromise in abhorrent to lawful composition of the society or would promote savagery."

In view of the above, there remains no doubt that a compromise has been effected between the parties. There is, thus, no justification to continue with the proceedings initiated pursuant to the F.I.R. in question. In view of the Full Bench judgment of this Court in Kulwinder Singh's case (supra) and in order to meet the ends of justice, the present petition is allowed and the FIR in question as well as the subsequent proceedings arising there from are hereby quashed.

(Ajay Kumar Mittal)
Judge

July 16, 2008
RKMALIK